

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)
SIPA LIQUIDATION
(Substantively Consolidated)

In re:

MADOFF SECURITIES

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DEFENDANTS LISTED ON APPENDIX A
ATTACHED HERETO,

Defendants.

Adv. Pro. Nos. listed on Appendix A
Attached Hereto

**MEMORANDUM OF LAW OF THE
SECURITIES INVESTOR PROTECTION CORPORATION
IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS**

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The Securities Investor Protection Corporation (“SIPC”) submits this memorandum of law (1) in opposition to motions to dismiss (the “Motions”) filed by the Defendants Listed on Appendix A attached hereto (the “Defendants”), and (2) in support of the position taken with regard to these Motions by Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation proceedings of Bernard L. Madoff Investment Securities LLC (“BLMIS” or “Debtor”) under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* (“SIPA”),¹ and Bernard L. Madoff. The Motions seek dismissal of the complaints or amended complaints (the “Complaints” or “Avoidance and Recovery Actions”) filed in the respective adversary proceedings by the Trustee. In light of the Court’s Order Adjourning Hearing on Becker & Poliakoff LLP Motions to Dismiss *Sine Die*, dated March 5, 2014 (ECF No. 5771), and in view of the common issues presented, SIPC incorporates herein by reference the arguments set forth in its Opposition to the Becker & Poliakoff LLP Motions to Dismiss, dated January 17, 2014 (“SIPC Opposition to B&P Motions”), Adv. Pro. No. 10-04380, ECF No. 32.

STATEMENT OF FACTS

In the Avoidance and Recovery Actions at hand, the Trustee seeks to recapture, for the benefit of all BLMIS customers, stolen BLMIS customer funds transferred to the Defendants, either as initial or subsequent transferees. Because BLMIS ran a Ponzi scheme, none of the funds received by the Defendants were generated through investment, but, in reality, were other customers’ stolen funds.

STANDARD OF REVIEW

On a motion to dismiss, all factual allegations in the Complaint are to be taken as true. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007). A motion to dismiss is denied

¹ For convenience, references to provisions of SIPA shall omit “15 U.S.C.”

when the complaint contains sufficient facts to “draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009).

ARGUMENT

I. Arguments in the Motions are Duplicative of the Arguments Addressed in the SIPC Opposition to the B&P Motions

Certain Defendants raise the following arguments which are addressed by SIPC in its Opposition to the B&P Motions:

- The Trustee lacks standing to bring the actions because, as they argue, sufficient funds exist to compensate customers and thus the requirements of SIPA section 78fff-2(c)(3) have not been met. *See, e.g.*, Adv. Pro. No. 10-5400, ECF No. 17, at 2-3. *But see* SIPC Opposition to B&P Motions, at 5.
- The Trustee “improperly combines accounts.” *See, e.g.*, Adv. Pro No. 10-05224, ECF No. 20, at 21. *But see* SIPC Opposition to B&P Motions, at 24.
- The Trustee fails to adequately plead a subsequent transfer claim. *See, e.g.*, Adv. Pro. No. 10-05194, ECF No. 18, at 37. *But see* SIPC Opposition to B&P Motions at 25.
- The Trustee lacks standing because the property sought does not belong to the Debtor. *See, e.g.*, Adv. Pro. No. 10-04865, ECF No. 22 at 9. *But see* SIPC Opposition to the B&P Motions, at 8-11. The Second Circuit rejected a similar argument in *Rosenman Family, LLC v. Picard*, 395 F. App’x 766, 769 (2d Cir. 2010) (rejecting an argument that a deposit “never became the debtor’s property”).

**II. Many Arguments in the Motions Have Been Resolved
by the Second Circuit or the District Court**

Certain Defendants renew arguments previously made and discounted either by the Second Circuit in connection with the “Net Equity Decision,” *see In re Bernard L. Madoff Inv. Sec. LLC*, 654 F.3d 229 (2d Cir.), *reh’g and reh’g en banc denied* (2d Cir. Nov. 08, 2011), *cert. dismissed*, 132 S.Ct. 2712 (2012), *and cert. denied*, 133 S. Ct. 24 and 133 S. Ct. 25 (2012), or by the United States District Court for the Southern District of New York (Rakoff, J.) in response to similar motions to dismiss. These arguments, and the related prior decisions, are as follows:

- Whether section 546(e) of title 11 of the United States Code (the “Bankruptcy Code”) applies: *Picard v. Greiff*, 476 B.R. 715 (S.D.N.Y. 2012) (holding that section 546(e) protects some transfers from avoidance); and *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 12 MC 115 JSR, 2013 WL 1609154 (S.D.N.Y. Apr. 15, 2013) (holding that those defendants with actual knowledge are not protected by section 546(e));
- Whether Defendants have valid antecedent debt²: *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 499 B.R. 416 (S.D.N.Y. 2013) (holding that a defendant’s antecedent debt is limited to the amount of his investment) (the “Antecedent Debt Opinion”);

² The Antecedent Debt Opinion also rejected the following arguments: (1) that the Trustee cannot avoid obligations of the debtor, *see, e.g.*, Adv. Pro. No. 10-04725, ECF No. 21, at 15, *and see* Antecedent Debt Opinion, 499 B.R. at 421 n.4; (2) that defendants should receive credit for inter-account transfers of fictitious profits as if the transfers constituted principal, *see, e.g.*, Adv. Pro. No. 10-05397, ECF No. 20, at 33, *and see* Antecedent Debt Opinion, 499 B.R. at 428-29 (“The funds at issue are still other people’s money, and shifting them among accounts, whether those accounts are owned by the same person or entity or, for example, transfers among family members, does not morph those funds into actual new principal.”); and (3) that use of the avoidance provisions here is unfair, *see, e.g.*, Adv. Pro. No. 10-05255, ECF No. 23, at 20, *and see* Antecedent Debt Opinion, 499 B.R. at 425-26.

- Whether Bankruptcy Code section 502(d) applies in a SIPA liquidation: *In re Madoff Securities*, 12-mc-0115, Order, entered Feb. 13, 2013 (ECF No. 435) (holding that SIPA does not preclude the application of Bankruptcy Code section 502(d));
- Whether a trustee needs to avoid a transfer in order to recover against a subsequent transferee: *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 501 B.R. 26, 31 (S.D.N.Y. 2013) (“Thus, there is no basis in the language of either section 550(a) or the Bankruptcy Code’s avoidance provisions to assume that avoidance actions must be brought—or fully adjudicated—against an initial transferee for recovery proceedings to go forward against a subsequent transferee.”);
- Whether the Bankruptcy Court has jurisdiction under *Stern v. Marshall*: *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 490 B.R. 46, 58 (S.D.N.Y. 2013) (holding that the Bankruptcy Court “has the power to hear the matter in the first instance and recommend proposed findings of fact and conclusions of law”);
- Whether IRA withdrawals are protected: *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 476 B.R. 715, 729 (S.D.N.Y. 2012), supplemented (May 15, 2012) (holding that the Internal Revenue Code and its requirement for minimum distributions for IRA accounts does not require dismissal of the Trustee’s claims).

Finally, this Court recently ruled that calculation of a customer’s net equity does not include an adjustment for time-based damages. *Sec. Investor Prot. Corp. v. Bernard L. Madoff*

Inv. Sec. LLC, 496 B.R. 744, 750 (Bankr. S.D.N.Y. 2013). The issue has been appealed directly to the United States Court of Appeals for the Second Circuit. *See* Case No. 14-97-bk (2d Cir.).

Accordingly, SIPC submits that the above decisions are dispositive of all of the above issues as presented by Defendants in their Motions.

III. Variations on the “Reset to Zero” and “Replenishment Credit” Theories Have Been Rejected by the District Court and Must Fail

Certain Defendants advance variations on the “reset to zero” or “replenishment credit” theories in asserting that they are entitled to a credit in the calculation of their avoidance liability. For example, some Defendants erroneously contend that BLMIS was not created until 2001,³ and therefore, the amount of fictitious profits received by them should be reduced by amounts of fictitious profit paid to them prior to that date. *See* Adv. Pro. No. 10-04561, ECF No. 24, at 10. Others argue that the Trustee’s calculation of the avoidable transfer violates the two year reach back period in Bankruptcy Code section 548 and Defendants should receive credit for their fictitious profits prior to the reach back period. *See, e.g.*, Adv. Pro. No. 10-04565, ECF No. 19, at 27. In its Antecedent Debt Opinion, the District Court explained the origin of Defendants’ arguments: “Under the Net Investment Method, defendants receive credit to the extent that they provided value to Madoff Securities over the life of their investment relationship, whereas the Replenishment Credit Method shifts the point at which principal turns into fictitious profits for some defendants, granting them a windfall based on the happenstance of the timing of those investments of principal.” 499 B.R. at 427-28. This Replenishment Credit Method was rejected

³ Certain Defendants state, without authority, that BLMIS was created in 2001. *See, e.g.*, Adv. Pro. No. 10-04561, ECF No. 24, at 10. In point of fact, BLMIS has been registered with the Securities and Exchange Commission since 1960, and has been a SIPC member since the inception of SIPC in 1970. Accordingly, Defendants’ argument that the transfers made prior to 2001 were not made by BLMIS and thus should not factor into the calculation of their fraudulent transfer liability is without factual basis.

twice by the District Court: first, as part of the *Katz* case, *see* Order, Case No. 11-cv-03605-JSR, ECF No. 142, at 3, and second, as part of the consolidated briefing on antecedent debt, 499 B.R. at 427-28. These variations on that theme must fail here as well, for the reasons provided by the District Court in the Antecedent Debt Opinion.

IV. The Trustee Has Met the Fraud Pleading Standard Under Bankruptcy Code Section 548(a)(1)(A)

Certain Defendants argue that the Trustee has failed to meet the pleading requirements for an actual fraudulent transfer under section 548(a)(1)(A). *See, e.g.*, Adv. Pro. No. 10-04978, ECF No. 22, at 7-8. As this Court has previously held, “[i]t is now well recognized that the existence of a Ponzi scheme establishes that transfers were made with the intent to hinder, delay and defraud creditors.” *In re Bernard L. Madoff Inv. Sec., LLC*, 440 B.R. 243, 255 (Bankr. S.D.N.Y. 2010), *leave to appeal denied*, 2011 WL 3897970 (S.D.N.Y. Aug. 31, 2011) (“The breadth and notoriety of the Madoff Ponzi scheme leave no basis for disputing the application of the Ponzi scheme presumption to the facts of this case. Accordingly, the debtor's fraudulent intent has been adequately pled for purposes of actual fraud under the Code.”). Thus, by alleging that BLMIS was a Ponzi scheme and that Defendants received transfers of fictitious profits from this Ponzi scheme, the Trustee has met the pleading standard under Bankruptcy Code Section 548(a)(1)(A).

V. The Trustee May Avoid Charitable Contributions

Defendant America-Israel Cultural Foundation (“AICF”) and others argue that non-bankruptcy law protects transfers to charitable organizations. *See, e.g.*, Adv. Pro. No. 10-05058, ECF No. 18, at 13. For example, AICF asserts that because “no part of the net earnings of which inures to the benefit of any private shareholder or individual” may be tax-exempt under 26 U.S.C. section 501(c)(3), AICF would violate the Internal Revenue Code if the fictitious profits

received by AICF were returned to the Trustee, a “private individual.” This argument, however, incorrectly presumes that the fictitious profits constitute “earnings” under 26 U.S.C. section 501(c)(3), even once those earnings are disgorged to the Trustee. As such, this argument fails. In addition, AICF argues that New York Not-for-Profit Law section 513 requires that funds must be used as intended by the donor. In essence, AICF contends that BLMIS, the debtor that made the actually fraudulent transfer, has a state-law right to dictate how its charitable donation must be used, and that the state-law right trumps the federal Bankruptcy Code. On the basis of the Supremacy Clause alone, this argument must fail. *See* U.S. Const., art. VI, cl.2. AICF also argues that avoidance of the fraudulent transfer is akin to taking property of the Israeli nationals that AICF helps. Even assuming, *arguendo*, that such a prohibition existed, the Trustee has not filed a claim against Israeli nationals, but against a United States-based organization. Here too, AICF’s argument fails. Finally, AICF argues that the Trustee’s avoidance action violates the Religious Freedom Restoration Act. This argument was refuted in SIPC’s Opposition to the B&P Motions, at 29.

CONCLUSION

For all of the reasons stated herein and incorporated herein by reference, the Motions should be denied.

Dated: Washington, D.C.
March 10, 2014

Respectfully submitted,

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APPENDIX A
Included Motions to Dismiss¹

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
1.	10-05401	Picard v. Estate of Eleanor Myers a/k/a Eleanor Block a/k/a Lee Block, et al.	3/3/14	Milberg LLP
2.	10-05255	Picard v. Stefanelli Investors Group, et al. ²	2/28/14	Delbello Donnellan Weingarten Wise & Wiederkehr, LLP
3.	10-04797	Picard v. Edmond A. Gorek, et al	2/27/14	Day Pitney LLP
4.	10-04623	Picard v. Edmond A. Gorek	2/27/14	Day Pitney LLP
5.	10-04349	Picard v. Pauline B. Feldman	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
6.	10-04394	Picard v. Frederic Z. Konigsberg, et al.	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
7.	10-04396	Picard v. Edith A. Schur	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
8.	10-04408	Picard v. Cheryl Yankowitz, et al.	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
9.	10-04468	Picard v. Ken-Wen Family Limited Partnership, et al.	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
10.	10-04560	Picard v. Richard E. Feldman	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
11.	10-04561	Picard v. Jeffrey R. Werner 11/1/98 Trust, et al.	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
12.	10-04717	Picard v. William Diamond	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
13.	10-05094	Picard v. The Estate of Carolyn Miller, et al	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP

¹ This list identifies all defendants participating in this omnibus briefing process as of the filing date of the Trustee's memorandum of law in opposition to the motions to dismiss.

² Note that this motion to dismiss was filed in response to the amended complaint filed on January 10, 2012 and is substituted in place of the prior motion to dismiss filed on December 20, 2011 in response to the initial complaint, that was included on the original Appendix A filed with the Trustee's Letter dated February 20, 2014.

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
14.	10-05231	Picard v. Trust under Deed of Suzanne R. May, et al	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
15.	10-04361	Picard v. Harvey L. Werner Revocable Trust, et al.	2/18/14	Bernfeld, DeMatteo & Bernfeld, LLP
16.	10-04772	Picard v. M. Elliot Schnall	1/24/14	Herbert Biegel
17.	10-04655	Picard v. Jaffe Family Partnership, et al.	1/17/14	Lax & Neville LLP
18.	10-04756	Picard v. Stephen B. Kaye, et al.	1/17/14	Lax & Neville LLP
19.	10-04900	Picard v. Bonnie J. Kansler	1/17/14	Lax & Neville LLP
20.	10-04881	Picard v. Jillian Wernick Livingston	1/17/14	Lax & Neville LLP
21.	10-04481	Picard v. Armand Lindenbaum	1/17/14	Lax & Neville LLP
22.	10-04467	Picard v. David S. Wallenstein	1/17/14	Lax & Neville LLP
23.	10-04307	Picard v. Howard Solomon	1/17/14	Lax & Neville LLP
24.	10-04988	Picard v. Wallenstein / NY Partnership, et al.	1/17/14	Lax & Neville LLP
25.	10-04827	Picard v. Madeline Gins Arakawa, et al.	1/17/14	Lax & Neville LLP
26.	10-04289	Picard v. John Fujiwara, et al	1/17/14	Lax & Neville LLP
27.	10-04301	Picard v. Frieda Bloom	1/17/14	Lax & Neville LLP
28.	10-04304	Picard v. Elinor Solomon	1/17/14	Lax & Neville LLP
29.	10-04647	Picard v. Abbit Family Trust, et al	1/17/14	Lax & Neville LLP
30.	10-05169	Picard v. Fairfield Pagma Associates, LP, et al.	1/17/14	Lax & Neville LLP
31.	10-05246	Picard v. Frances J. Le Vine Rev. Trust, et al.	1/17/14	Lax & Neville LLP
32.	10-04954	Picard v. Ruth Kahn	1/17/14	Lax & Neville LLP
33.	10-05036	Picard v. Elinor Friedman Felcher	1/17/14	Lax & Neville LLP

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
34.	10-05048	Picard v. Armand L. Greenhall, et al.	1/17/14	Lax & Neville LLP
35.	10-05160	Picard v. The Lanny Rose Rev. Trust, et al	1/17/14	Lax & Neville LLP
36.	10-04573	Picard v. Bruce Leventhal 2001 Irrevocable Trust, et al.	1/17/14	Lax & Neville LLP
37.	10-04966	Picard v. Onesco International, Ltd., et al.	1/17/14	Lax & Neville LLP
38.	10-05400	Picard v. Ted Goldberg, et al.	1/17/14	Wachtel Missry LLP
39.	10-04726	Picard v. Lori Chemla, et al.	1/17/14	Wachtel Missry LLP
40.	10-04579	Picard v. Shetland Fund Limited Partnership, et al.	1/17/14	Wachtel Missry LLP
41.	10-04896	Picard v. Helene Juliette Feffer	1/17/14	Wachtel Missry LLP
42.	10-05372	Picard v. O.D.D. Investment LP, et al.	1/17/14	Wachtel Missry LLP
43.	10-04502	Picard v. Steven Schiff	1/17/14	Wachtel Missry LLP
44.	10-04363	Picard v. Schiff Family Holdings Nevada Limited Partnership, et al.	1/17/14	Wachtel Missry LLP
45.	10-04447	Picard v. Franklin Sands	1/17/14	Wachtel Missry LLP
46.	10-04472	Picard v. Daniel N. Silna, et al.	1/17/14	Wachtel Missry LLP
47.	10-04470	Picard v. Silna Family Inter Vivos Trust, et al.	1/17/14	Wachtel Missry LLP
48.	10-04357	Picard v. James Greiff	1/17/14	Dentons LLP
49.	10-04796	Picard v. Howard Kaye	1/17/14	McCloughlin & Stern LLP
50.	10-04735	Picard v. Kara Fishbein Goldman, et al.	1/17/14	Pryor Cashman LLP
51.	10-04944	Picard v. Pergament Equities LLC, et al.	1/17/14	Pryor Cashman LLP

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
52.	10-05194	Picard v. Bruce D. Pergament, et al.	1/17/14	Pryor Cashman LLP
53.	10-05087	Picard v. Steven J. Lifton	1/17/14	Meyer, Suozzi, English & Klein, P.C.
54.	10-04906	Picard v. Steven V Marcus Separate Property of the Marcus Family Trust, et al.	1/16/14	Milberg LLP
55.	10-04861	Picard v. Harold J. Hein	3/22/13	Dentons LLP
56.	10-04921	Picard v. Stanley T. Miller	3/22/13	Dentons LLP
57.	10-04672	Picard v. Sidney Cole	3/22/13	Dentons LLP
58.	10-04415	Picard v. Barbara J. Berdon	3/22/13	Dentons LLP
59.	10-05209	Picard v. Lapin Children LLC	3/22/13	Dentons LLP
60.	10-04332	Picard v. Barry Weisfeld	3/22/13	Dentons LLP
61.	10-04401	Picard v. Rose Gindel Trust, et al.	3/22/13	Dentons LLP
62.	10-05085	Picard v. Eugene J. Ribakoff 2006 Trust, et al.	3/22/13	Dentons LLP
63.	10-05424	Picard v. The Frederia Ripley French Rev. Trust, et al.t	3/22/13	Dentons LLP
64.	10-05224	Picard v. David R. Markin, et al.	3/22/13	Dentons LLP
65.	10-04925	Picard v. Alvin Gindel Rev. Trust, et al.	3/22/13	Dentons LLP
66.	10-05384	Picard v. Neil Reger Profit Sharing Keogh, et al.	3/22/13	Dentons LLP
67.	10-05058	Picard v. America Israel Cultural Foundation	3/22/13	Dentons LLP
68.	10-04966	Picard v. Onesco International, Ltd., et al	3/22/13	Milberg LLP
69.	10-04951	Picard v. Harold A. Thau	3/22/13	Milberg LLP
70.	10-04946	Picard v. Stephen R. Goldenberg	3/22/13	Milberg LLP

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
71.	10-05089	Picard v. John Denver Concerts, Inc., et al.	3/22/13	Milberg LLP
72.	10-04335	Picard v. Aspen Fine Arts Co., et al.	3/22/13	Milberg LLP
73.	10-04978	Picard v. Estate of Ira S. Rosenberg, et al	3/22/13	Milberg LLP
74.	10-04725	Picard v. Ruth E. Goldstein	3/22/13	Milberg LLP
75.	10-04601	Picard v. Laurence E. Leif	3/22/13	Milberg LLP
76.	10-05069	Picard v. Potamkin Family Foundation	3/22/13	Milberg LLP
77.	10-04576	Picard v. Norton A. Eisenberg	3/22/13	Milberg LLP
78.	10-04741	Picard v. William M. Woessner Family Trust, et al.	3/22/13	Milberg LLP
79.	10-04724	Picard v. P. Charles Gabriele	3/22/13	Milberg LLP
80.	10-04582	Picard v. Gerald Blumenthal	3/22/13	Milberg LLP
81.	10-05136	Picard v. Richard Roth	3/22/13	Milberg LLP
82.	10-04540	Picard v. Jonathan Sobin	3/22/13	Seeger Weiss LLP
83.	10-05194	Picard v. Bruce D. Pergament, et al.	3/22/13	Pryor Cashman LLP
84.	10-04341	Picard v. James P. Marden, et al.	3/22/13	Pryor Cashman LLP
85.	10-04348	Picard v. Marden Family Limited Partnership, et al.	3/22/13	Pryor Cashman LLP
86.	10-05239	Picard v. Robert Fried, et al.	3/22/13	Pryor Cashman LLP
87.	10-05439	Picard v. Avram J. Goldberg, et al.	3/22/13	Pryor Cashman LLP
88.	10-05118	Picard v. Charlotte M. Marden, et al.	3/22/13	Pryor Cashman LLP
89.	10-04575	Picard v. Boslow Family Limited Partnership, et al.	3/22/13	Pryor Cashman LLP

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
90.	10-05397	Picard v. Oakdale Foundation Inc., et al.	3/22/13	Pryor Cashman LLP
91.	10-04565	Picard v. Murray & Irene Pergament Foundation, Inc., et al.	3/22/13	Pryor Cashman LLP
92.	10-04998	Picard v. Estate of Hermen Greenberg, et al.	6/15/12	Arent Fox LLP
93.	10-05027	Picard v. 1776 K Street Associates Limited Partnership, et al.	4/20/12	Arent Fox LLP
94.	10-04976	Picard v. Eleven Eighteen Limited Partnership, et al.	4/20/12	Arent Fox LLP
95.	10-04865	Picard v. Edward H. Kaplan, et al.	4/20/12	Arent Fox LLP
96.	10-04336	Picard v. The Estate of Doris Igoi, et al.	4/2/12	Kelley Drye & Warren LLP
97.	10-04799	Picard v. Marvin L. Olshan	2/3/12	Olshan Grundman Frome Rosenzweig & Wolosky LLP
98.	10-04774	Picard v. Diane Wilson	1/31/12	Simon & Partners LLP
99.	10-04551	Picard v. Douglas D. Johnson	1/4/12	Herrick, Feinstein LLP
100.	10-04370	Picard v. Sidney Marks Trust 2002, et al.	9/5/11	Wilmer Cutler Pickering Hale and Dorr LLP
101.	10-04698	Picard v. Nancy J. Marks Trust 2002, et al.	9/5/11	Wilmer Cutler Pickering Hale and Dorr LLP
102.	10-04511	Picard v. Weithorn/ Casper Associates For Selected Holdings, LLC, et al.	6/24/11	Becker Glynn, Melamed & Muffly LLP
103.	10-04419	Picard v. Katz Group Limited Partnership, et al.	6/20/11	Becker Meisel LLC
104.	10-04495	Picard v. Carl Glick	6/15/11	Becker Glynn, Melamed & Muffly LLP
105.	10-04435	Picard v. Prospect Capital Partners, et al.	6/13/11	Becker Glynn, Melamed & Muffly LLP

	Adv. Pro. No.	Case Caption	Date MTD Filed	Counsel for Defendant(s)
106.	10-04294	Picard v. David T. Washburn	6/13/11	Becker Glynn, Melamed & Muffly LLP
107.	10-04323	Picard v. Weiner Family Limited. Partnership, et al.	6/1/11	Fox Rothschild LLP
108.	10-04293	Picard v. Marvin M. Weiner	6/1/11	Fox Rothschild LLP
109.	10-05371	Picard v. L.H. Rich Companies, et al.	5/10/11	Garvey Schubert Baker
110.	10-04759	Picard v. Lewis R. Franck, et al.	4/1/11	<i>Pro se</i> Defendant
111.	10-04744	Picard v. Irving J. Pinto 1996 Grantor Retained Annuity Trust, et al.	1/26/11	Filed By Bruce S. Schaeffer, but now unrepresented; Estate's Counsel: Joseph A. Roman
112.	10-04538	Picard v. James B. Pinto Rev. Trust, et al	1/26/11	Filed By Bruce S. Schaeffer, but now represented by Marvin Ingber / McClay Alton, P.L.L.P Estate's Counsel: Joseph A. Roman
113.	10-04588	Picard v. Amy Pinto Lome Rev. Trust, et al	1/26/11	Filed By Bruce S. Schaeffer, but now represented by Marvin Ingber / McClay Alton, P.L.L.P Estate's Counsel: Joseph Roman